

174814  
S.A. 1

**WILLOUGHBY & HOEFER, P.A.**

ATTORNEYS & COUNSELORS AT LAW

1022 CALHOUN STREET (SUITE 302)

P.O. BOX 8416

COLUMBIA, SOUTH CAROLINA 29202-8416

MITCHELL M. WILLOUGHBY  
JOHN M.S. HOEFER  
ELIZABETH ZECK\*  
PAIGE J. GOSSETT  
RANDOLPH R. LOWELL  
K. CHAD BURGESS  
NOAH M. HICKS II\*\*

AREA CODE 803  
TELEPHONE 252-3300  
TELECOPIER 256-8062

July 14, 2005

\*ALSO ADMITTED IN TX  
\*\*ALSO ADMITTED IN VA

**VIA HAND DELIVERY**

The Honorable Charles L.A. Terreni  
Chief Clerk/Administrator  
**Public Service Commission of South Carolina**  
101 Executive Center Drive  
Columbia, South Carolina 29210

POSTED  
7/15/05  
toed

SC PUBLIC  
COMMISSION  
2005 JUL 14 PM 4:29  
FILED

RE: Application of Carolina Water Service, Inc. for adjustment of rates and charges for the provision of water and sewer service and modification of rate schedules; Docket No. 2004-357-WS

Dear Mr. Terreni:

Enclosed for filing please find the original and five (5) copies of Carolina Water Service, Inc.'s Petition for Rehearing or Reconsideration and, Alternatively, Request for Approval of Bond in the above-referenced matter.

I would appreciate your acknowledging receipt of this document by date-stamping the extra copy that is enclosed and returning it to me via our courier delivering same. By copy of this letter, I am serving all parties of record and enclose my certificate of service to that effect. If you have any questions, or need additional information, please do not hesitate to contact us.

Sincerely,

**WILLOUGHBY & HOEFER, P.A.**

  
John M.S. Hoefer

JMSH/twb  
Enclosures

cc: C. Lessie Hammonds, Esquire  
Florence P. Belser, Esquire  
Jessica J.O. King, Esquire  
Charles Cook, Esquire  
(All Via US Mail)

Service - OK

**BEFORE**  
**THE PUBLIC SERVICE COMMISSION OF**  
**SOUTH CAROLINA**  
**DOCKET NO. 2004-357-WS**

IN RE: )  
)  
Application of Carolina Water Service, )  
Inc. for adjustment of rates and )  
charges and modification of certain terms )  
and conditions for the provision of water )  
and sewer service. )  
\_\_\_\_\_ )

**PETITION FOR REHEARING OR  
RECONSIDERATION AND,  
ALTERNATIVELY, REQUEST FOR  
APPROVAL OF BOND**

Carolina Water Service, Inc. ("CWS"), pursuant to S.C. Code Ann. § 58-5-330 (1976), 26 S.C. Code Ann. Regs. 103-881 (Supp. 2004), and other applicable law, submits this petition for rehearing or reconsideration of Order No. 2005-328 in the above-captioned matter, and in support thereof would respectfully show as follows:

1. On December 17, 2004, CWS filed an Application seeking approval of a new schedule of rates and charges for water and sewer services it provides to customers in South Carolina. The Application sought an increase in annual service revenues of \$1,801,488.00.
2. After holding four "night hearings" on April 18, 2005, April 20, 2005, April 26, 2005 and May 2, 2005, and a public hearing on May 4 and 5, 2005, the Commission issued its Order No. 2005-328, dated June 22, 2005, addressing certain issues in this docket approving a schedule of rates designed to grant CWS an increase in annual water and sewer revenues of \$1,146,000.00 based upon an authorized return on rate base of 8.02%. Service of Order No. 2005-328 was made upon counsel for CWS by certified mail on June 24, 2005.

3. Regretfully<sup>1</sup>, CWS submits that Order No. 2005-328 prejudices its substantial rights because certain findings, inferences, conclusions, and decisions made therein are erroneous, unsupported by substantial evidence, arbitrary and capricious, characterized by abuse of discretion, in violation of constitutional or statutory provisions, made upon unlawful procedure, or affected by other errors of law or fact, as set forth herein.

4. Order No. 2005-328 adopts 9.1% as an appropriate return on equity for CWS based upon three primary conclusions, i.e., (i) that the testimony of ORS witness Johnson takes into account “investor’s long-run expectations for long-term dividend growth” [Order No. 2005-328 at 16-17], (ii) that the Commission may properly establish a maximum range of returns on equity in this case of 1.0% and restrict the allowed return on equity to such a range within the confines of the overall range adopted [Order No. 2005-328 at 18-19], and (iii) that the Commission may set rates at “the low end of the [resulting 9.1% to 10.1%]<sup>2</sup> range in order to minimize the impact on the Company’s customers.” [Order No. 2005-328 at 18-19.] For several reasons, the effect of the adoption of this return on common equity is to deny CWS the rate relief to which it is entitled under law and the evidence of record in this case.

---

<sup>1</sup>CWS recognizes the difficulties attendant to the discharge of the Commission’s ratemaking function and the myriad of interests and emotions which can be presented in that context. CWS certainly does not wish to burden the Commission with unnecessary matters and therefore does not unadvisedly seek reconsideration in this case. To the contrary, CWS does so most respectfully and in the sincere belief that its substantial rights will be adversely affected if it were to fail to do so.

<sup>2</sup>Although Order No. 2005-328 states that the range of supported returns on equity adopting Dr. Johnson’s DCF analysis is 9.1% to 10.7% after adjusting out the .4% flotation adjustment proposed by the witness [Id. at 16], it appears to CWS that the range intended to be stated in Order No. 2005-328 is actually 9.1% to 10.4% since the witness proposed a range of 9.5% to 10.8%.

- (a) CWS challenged the testimony of ORS witness Johnson regarding a proper return on equity on the ground that his testimony was based exclusively upon historical data. [Order No. 2005-328 at 16-17.] Citing to Dr. Johnson's surrebuttal testimony, Order No. 2005-328 appears to conclude that Dr. Johnson did not rely upon historical data only, but accounted for average investor long-run expectations for dividend growth in his 5.5% – 6.5% growth rate through an exercise of his "judgment." [Id., citing, *inter alia*, Tr. p. 259, l. 22- p. 261, l. 15.] The reliance upon this testimony is error since there is no evidentiary support whatsoever for Dr. Johnson's putative exercise of judgment. In other words, although Dr. Johnson rendered an opinion to the Commission based upon the historical data *plus* an exercise of his judgment with respect to future investor expectations, there is no evidence or record demonstrating the facts, data or reasoning he relied upon to reach his "judgment" in this regard. This is plain error as expert opinion testimony may not be accepted unless there is an evidentiary showing of the facts upon which the opinion is based; as a matter of law, such an opinion does not constitute substantial evidence. *See Hamm v. Southern Bell Telephone & Telegraph Co.*, 302 S.C. 132, 394 S.E.2d 311 (1990) *cert. denied*, \_\_\_ U.S. \_\_\_, 111 S.Ct. 1018, 112 L.Ed.2d 1099 (1991), *citing*, *Parker v. S.C. Public Service Comm'n*, 281 S.C. 215, 314 S.E.2d 597 (1984); also *see* S.C. Code Ann. § 58-5-240(H) (Supp. 2004).
- (b) No witness discussed the appropriateness of "a 1% range on return on equity" to be established and imposed within the range of returns otherwise testified to as is adopted by Order No. 2005-328. [Id. at 18-19.] Nonetheless, such a restriction is

imposed by Order No. 2005-328 based upon two grounds. The first is that the legislature, in 2005 S.C. Act 16, has “direct[ed] the Commission to specify a 1.0% cost of equity range for natural gas utilities regulated by th[e] Commission.” [Id.] The second ground is that the parties to another, recent proceeding involving a gas utility “agreed to, and the Commission adopted, a 1% range for return on equity.” [Id. at 19, citing Order No. 2005-2, in Docket No. 2004-178-E.] This determination to establish and apply a 1% maximum range of return on equity within the confines of the range adopted by the Commission constitutes error for several reasons.

### **S.C. ACT 16**

First, and as already alluded to above, there is no evidence of record supporting adoption of this artificial “mini-range” of allowable returns on equity. Accordingly, Order No. 2005-328 is unsupported by substantial evidence of record in this regard.

Second, Order No. 2005-328 incorrectly interprets the pertinent provisions of S.C. Act 16 as providing for the Commission to establish service rates for a gas utility within an artificial 1% range of returns on equity otherwise supported by evidence of record. To the contrary, Section 1 of S.C. Act 16 adds new sections 58-5-400, *et seq.*, which provide for a streamlined method by which gas utilities may apply for rate relief based upon changes in rate components other than purchased gas. In that context, the Commission is required to “specify a range for the utility’s cost of equity that includes a band of fifty basis points (0.50 percentage points) below and fifty basis points (0.50 percentage points) above the cost of equity **on which rates have been set.**” See S.C. Act 16, Section 1, to be codified as § 58-5-420(1) (emphasis supplied). In other words, the range is specified only after service rates

have been determined by adoption of an allowable return on equity. The purpose of requiring the Commission to make such a specification is to provide benchmarks within which the Commission may examine whether a gas utility's rates should be raised or lowered **in the future**, depending upon whether the company's performance within a given 12 month monitoring period is below the lower end or exceeds the upper end of the specified range. See S.C. Act 16, Section 1, to be codified as § 58-5-440. Thus, rather than being directed to establish service rates in gas cases employing a range of returns on equity not to exceed 1.0% within an otherwise allowable range, as Order No. 2005-328 suggests, the legislature has directed the Commission in S.C. Act 16 to specify the range resulting from a fifty basis point spread on either side of the allowed return on equity used to set gas rates for future comparison purposes in the context of a streamlined gas rate regulatory procedure. In sum, S.C. Act 16 does not in any manner provide for the establishment of gas service rates by imposing a "mini-range" within otherwise allowable returns on equity.

Third, even if S.C. Act 16 could be read in the manner suggested by Order No. 2005-328, it has no application in the context of the instant case since, by its own terms, it applies only to "a public utility providing natural gas distribution service" and only when such a utility elects the streamlined regulatory treatment permitted thereunder. See S.C. Act 16, Section 1, to be codified as § 58-5-410. By comparison, the statutory provisions applicable to water and sewer utility rate adjustment proceedings contain no authorization for a streamlined ratemaking process. See S.C. Code Ann. § 58-5-240 (Supp. 2004). Because the Commission only has such authority as is granted to it by the legislature, the exercise of extra-statutory powers in this part of Order No. 2005-328 is error. *See S.C. Cable Television*

*Ass'n v. The Public Service Commission of South Carolina*, 313 S.C. 48, 437 S.E.2d 38 (1993).

**“AGREED” RANGE IN DOCKET NO. 2004-178-E**

Fourth, the reliance upon the parties’ stipulation regarding a 1.0% range of reasonable returns on equity, and the Commission’s adoption of a different 1.0% range of returns on equity, in a recently concluded gas case to support a similar determination in Order No. 2005-328 is error on several levels. Initially, CWS would again note that there is no evidence of record supporting the imposition of this restriction upon the range of otherwise allowable returns on equity as no witness offered any testimony or exhibit in this regard. Also, a practice observed in another, unrelated case may not be applied in the instant case without an explanation of the evidence of record supporting the application of that practice. *See Hamm v. PSC*, 309 S.C. 282, 422 S.E.2d 110 (1992); *see also Heater of Seabrook, Inc. v. PSC*, 332 S.C. 20, 503 S.E.2d 739 (1998). The fact that parties of record proposed and the Commission adopted a (different) range of allowable returns on equity – which only happened to be 1.0% – in another case is simply inadequate to constitute substantial evidence of record on any point in the instant case. Moreover, Order No. 2005-328 is devoid of any reasoning or analysis supporting the determination in this regard. This, too, is error under *Heater*. Furthermore, the Commission’s practice in Docket No. 2004-178-E, even if it were supported by substantial evidence of record and the analysis as required by *Hamm* and *Heater of Seabrook, supra*, is inapposite in the instant case. This is so because the parties’ stipulation and the Commission’s decision in Docket No. 2004-178-E involved the determination of a reasonable range of returns on equity **in the first instance** as a component

of the overall rate of return. Here, the Commission had already determined that an allowable range of returns on equity was 9.1% to 10.4%. [Order No. 2005-328 at 16 and n. 1, *supra*.] The imposition of an additional restriction in the form of this “mini-range” simply deducted 30 basis points, or 0.30%, from the allowable range already determined without evidentiary or analytical basis. This arbitrary and capricious determination also constitutes legal error in light of *Hamm* and *Heater*.

Fifth, even assuming that a mini-range of ROE’s may be properly imposed in the context of the instant case, CWS was not informed in advance of the hearing that the Commission would only consider recommended ROE’s restricted to a 1.0% range. Thus, CWS was not aware that the testimony of witnesses should be so tailored and was prejudiced by the lack of notice in this regard since it had no ability to present evidence or cross examine witnesses in the case in this regard. The effect of this is to deny CWS the process due it under the law. *See* S.C. Const. art. I, § 22. *Also see Porter v. Public Service Comm’n*, 338 S.C. 164, 525 S.E.2d 866 (2000).

- (c) Order No. 2005-328 concludes that it is proper for the Commission to select 9.1% as the appropriate return on equity for CWS for the express purpose of minimizing the impact of the rate adjustment on customers. [Id. at 18-19.] This is error for several reasons. First, Order No. 2005-328 contains no discussion or analysis of the reasons customers are entitled to have the impact of a rate increase minimized by setting the allowable return on equity at the lowest end of the range adopted. This is contrary to the holding of *Heater, supra*. Furthermore, no explication is provided of how the determination was made that effectively eliminating 90% of the adopted



range of returns “allows the Company to realize a reasonable rate of return and maintain its financial viability.” [Order No. 2005-328 at 19.] Conclusory statements not supported by evidence of record described in the order are legally insufficient. See *Heater*, S.C. Code Ann. § 1-23-350 (2004) and § 58-5-240 (H). Finally, and most importantly, the stated intent of Order No. 2005-328 to set rates in a manner designed to minimize the impact on customers is inconsistent with the Commission’s charge under law to **balance** the interests of utilities and their ratepayers. See *Seabrook Island Property Owners Association v. S.C. Public Service Comm’n*, 303 S.C. 493, 401 S.E.2d 672 (1991); also see *S.C. Cable Television Ass’n, supra*, citing *Southern Bell v. Public Service Comm’n*, 270 S.C 590, 244 S.E.2d 278 (1978). In fact, the Commission recognized that this duty continues to bind it in its rate base regulation decisions in the very same gas rate case that is cited in Order No. 2005-328. See Order No. 2005-2, Docket No. 2004-178-E, at 84. Applying the required balancing of interests in that docket, the Commission adopted a return on equity at the lower end of the adopted range in that case, finding that same “fulfill[ed] the Commission’s legal responsibility to balance the interests of consumers, SCE&G and shareholders.” *Id.* at 100. Thus, within an allowable range of 10.4% to 11.4% in that case, the Commission selected 10.7%. By contrast, Order No. 2005-328 does not balance the competing interests at play in this case in arriving at an allowable return on equity, but intentionally eschews any balancing in favor of an outcome expressly intended to favor ratepayers by going to the bottom of an allowable range. This is error since it reflects that there was no balancing of interests.

5. CWS submits that Order No. 2005-328 determines rates in an erroneous, arbitrary, and capricious manner. Order No. 2005-328 concludes that CWS must be allowed additional revenues of \$1,146,000, or \$1,137,138 after uncollectibles, in order for the Company to have an opportunity to receive the authorized return on rate base of 8.02%. [Id. at 45.] To give effect to this conclusion, Order No. 2005-328 adopts a schedule of rates which, in addition to granting the full measure of water rate relief requested, authorizes a monthly sewer service charge of \$36.46 per residential unit or single family equivalent (“SFE”). [Order No. 2005-328, Appendix A.] By comparison, in its proposed order, ORS recommended that the Commission adopt a lower return on rate base (7.78%), yet concluded that this entitled CWS to a higher monthly residential sewer service charge (\$37.47 per unit or SFE) than approved by the Commission (in addition to the full water rate increase requested). This anomalous result arises out of the fact that Order No. 2005-328 rejects the customer growth adjustment of \$23,825 proposed by ORS – using the Commission’s standard and established formula which was agreed to by CWS – on the ground that ORS had included customer growth in both determining revenues produced under the proposed rates and in arriving at a separate customer growth factor. [Id. at 34-35.] This is error for several reasons.

- (a) First, the rejection of ORS’s customer growth adjustment using the Commission’s standard formula is contrary to the Commission’s established practice of requiring that customer growth rates be applied to both revenues and expenses. Under Order No. 2005-328, the Commission has effectively adopted as a customer growth rate the customer growth component reflected in the Company’s revised calculation of proposed water and sewer revenues. [Id. at 20, 34.] However, and as Order No. 2005-328 reflects, the Company did not propose that growth component as a separate

adjustment for ratemaking purposes. [Id. at 34.] By adopting only the customer growth component stated in the Company's revenue calculation as a customer growth adjustment for ratemaking purposes, Order No. 2005-328 saddles the Company with the liability of customer growth on the revenue side but denies it with the corresponding benefit to the Company on the expense side. The Commission has routinely rejected such a one-sided adjustment for customer growth, including the proposal of the Consumer Advocate to that effect in the Company's last rate case. See Order No. 2001-887, Docket No. 2000-207-W/S, August 27, 2001 at 63-65.<sup>3</sup> Therein, the Commission noted that an adjustment applied to net income, as proposed by ORS in the instant case, achieves the requirement that customer growth adjustments apply to revenues and expenses. [Id.] CWS submits that the rejection of ORS's proposed customer growth adjustment is therefore error. *330 Concord Street Neighborhood Association v. Campsen*, 309 S.C. 514, 424 S.E.2d 538 (Ct. App. 1992).

- (b) Second, and as Order No. 2005-328 acknowledges, the customer growth component of CWS's revenue calculation was not proposed as a customer growth adjustment for ratemaking purposes. [Id. at 34.] Thus, there is no evidence of record supporting the

---

<sup>3</sup>In rejecting the Consumer Advocate's proposal to adjust only revenues for customer growth in that case, the Commission noted that the traditional Commission Staff adjustment, while not precise, took into account both revenues and expenses. Order No. 2001-887 at 64. The Commission then stated its belief that "any adjustment for customer growth **must** necessarily also **take into account increases in expenses**. While it cannot be stated with absolute certainty that the addition of customers adds expenses in a directly proportionate manner, **one cannot assume that the addition of customers does not increase expenses**. [The Consumer Advocate's] proposed adjustment only factors in one side of the equation (i.e., revenues) and ignores expenses." Id. at 65 (emphasis supplied).

adoption of the 6.34% water and 2.49% sewer growth components as a customer growth adjustment which ignores customer growth with respect to expenses.

- (c) Third, as a result of adopting a customer growth adjustment applying only to revenue, Order No. 2004-328 overstates the additional annual revenue required to achieve a return on rate base of 8.02%, but understates the monthly sewer service rate required to achieve the proper additional revenue to which the Company is entitled. This is so because, in order to achieve the permitted 8.02% return on rate base when a customer growth adjustment of 6.34% for water and 2.49% for sewer is properly applied to net income (i.e., to both revenues and expenses), the resulting additional annual revenues total only \$1,077,178 and yield monthly sewer service charges of \$37.76 per residential unit or SFE, \$26.99 per mobile home, and \$24.33 per collection only unit or SFE.<sup>4</sup> Attached hereto and incorporated herein by reference as Petition Exhibit 1 are five (5) schedules prepared by the Company demonstrating this result. Alternatively, should the ORS proposed customer growth adjustment be used, which applies a rate of 1.82% to water net income and 1.36% to sewer net income, the resulting additional revenue required to achieve an 8.02% return on rate base is \$1,117,000 and the monthly sewer service charges are \$38.14 per residential unit or SFE, \$27.21 per mobile home, and \$24.37 per collection only unit or SFE. Attached hereto and incorporated herein by reference as Petition Exhibit 2 are five (5) schedules prepared by the Company demonstrating this result.

---

<sup>4</sup>These are very close to the monthly sewer rates recommended by ORS in its proposed order, which are \$37.74 per residential unit or SFE, \$27.31 per mobile home, and \$23.92 per collection only unit or SFE.

CWS therefore submits that the Commission should reconsider Order No. 2005-328 in this regard and adopt a growth adjustment which is consistent with one of the two scenarios set out in paragraph 5(c) hereof, reflect the correct additional revenues required to achieve a return on rate base of 8.02%, and revise Appendix A to the order accordingly.

6. Based upon the night hearing testimony of approximately three-tenths of one percent (.3%) of the Company's total customer base,<sup>5</sup> Order No. 2005-328 concludes that the Company's quality of service, specifically "customer service, water quality and compliance with the regulations of . . . (DHEC)" are issues which the Commission will address through the adoption of certain measures applicable to CWS. [Order No. 2005-328 at 50.] For the following reasons, CWS submits that the findings and conclusions in this regard set out in Order No. 2005-328 are erroneous in light of the substantial evidence of record and that the measures imposed are contrary to or in excess of law and violate the Company's due process rights:

- (a) In view of the size of the Company's customer base, CWS submits that the level of customer testimony complaining about service is immaterial. *Cf. Porter v. S.C. Public Service Comm'n*, 328 S.C. 222, 493 S.E.d 92 (1997) (holding that a variance in expenses of approximately .3% not material to determination of the Company's allowable rate base.)<sup>6</sup> Not all of these customers testified regarding quality of service

---

<sup>5</sup>The Company's test year customers total approximately 15,800. [Order No. 2005-328 at 8.] Accordingly, 54 customers constitute .3417% of the Company's total customer base.

<sup>6</sup>In footnote 2, Order No. 2005-328 states that "[a] total of 229 customers attended the night hearings in this case" and that "[i]t is reasonable to assume that more customers would have spoken but for the lateness of the hour and the desire to refrain from duplicative testimony." [Id. at 2.] In addition to being wholly speculative in nature – since the Commission heard from none of these customers and therefore cannot know whether the persons in attendance were all "customers" or that they would have duplicated testimony given by customers – there is no evidence of record to support

or customer service issues, with many confining their comments to concerns over rates. Some of these customers stated that they had experienced no problems with the Company's service. Furthermore, the vast majority of customers testifying at the night hearings were in the Company's River Hills service area near Lake Wylie. According to the evidence of record, ORS conducted an unannounced inspection of the Company's River Hills system. [Tr. p. 406, ll. 6-15.] Yet there is no evidence in the record, based upon the objective inspection of the River Hills system by ORS, that a customer service or quality of service issue exists in that service area. See Hearing Exhibits 16 and 17. To the contrary, ORS concluded that CWS provides adequate service and meets all customer relation standards established under Commission regulations. The Commission may take notice of its own records, which show that not one complaint has been filed with the Commission by a CWS customer under S.C. Code Ann. § 58-5-270 (Supp. 2004) since the completion of the Company's last rate case. CWS respectfully submits that the foregoing clearly demonstrates why the Commission cannot properly rely upon the very limited and "anecdotal" evidence of the type cited in Order No. 2005-328 as it is not such as

---

the number of customers in attendance at the night hearings. Accepting for the sake of argument, however, that 229 persons were in attendance at the four night hearings and were all customers, this means that less than 1.5% of the Company's customers even felt compelled to attend the night hearings. And, as the ORS audit reflects, only eighteen (18) complaints were made to the ORS Consumer Services division or its predecessor by customers regarding the Company's service or billing practices in the test year. [Hearing Exhibit 17 at DMH-2, p. 1.] This means that exactly one and one-half complaints per month were filed with ORS concerning the Company during the test period, which, relative to the total customer base of 15,800 and the annual number of bills issued by CWS, is **infinitesimally** low.

would permit a reasonable person to form a conclusion with respect to the Company's overall quality of service and customer service.

- (b) Order No. 2005-328 concludes that there is "cause for concern" with respect to "customer service" and "quality of service" and therefore imposes upon CWS certain duties with respect to recording and reporting to ORS customer complaints. [Id. at 51-52.] In support of this, Order No. 2005-328 cites *Seabrook Island Property Owners Ass'n v. South Carolina Public Service Commission*, 303 S.C. 493, 401 S.E.2d 672 (1991) for the proposition that the "Commission has always considered **customer service** and quality of service to be components of rate cases." [Id. at 51, emphasis supplied.] CWS respectfully submits that the cited case makes no reference to "customer service," and therefore does not support the Commission's findings in this regard. Moreover, with respect to the quality of the Company's service, the applicable caselaw makes clear that the Commission is only informed with respect to quality of service by reference to the adequacy of service – i.e., whether the Company maintains facility sufficient to provide adequate service as required under Commission rules. *See Patton v. Public Service Comm'n*, 280 S.C. 288, 312 S.E.2d 257 (1984). Based upon the testimony of ORS witnesses Morgan and Hipp, the Company provides adequate service. Thus, Order No. 2005-328 is erroneous in its conclusion that there exists a "quality of service" issue.
- (c) Order No. 2005-328 also concludes that, although CWS maintains customer complaint records on a computer data base showing the identity of the customer, date and time of complaint, nature of complaint, nature of resolution and date and time

of resolution – which ORS witness Hipp noted fully complies with Commission requirements (Tr. p. 416, ll. 2-17) – “CWS did not have a systematic approach to reviewing these complaints and their outcomes.” [Order No. 2005-328 at 51.] Order No. 2005-328 further concludes that “no periodic reports of customer complaints were generated by the Company, which would allow the company [sic] to be aware of the volume of its customer complaints.” The Order also concludes that “Company witness Haas testified that no periodic reports of customer complaints were generated by the Company.” [Id.] Based upon these conclusions, Order No. 2005 directs CWS (i) to make “semesterly reports of its customer complaints and provide them to [ORS] for review and such further action as that agency shall deem appropriate,” with such reports to contain, at a minimum, the information required under RR. 103-516 and 103-716 (Supp. 2004), (ii) notify customers through monthly billings of the Company’s “complaint procedures” and provide customers with the ORS’s toll-free telephone number, and (iii) notify complaining customers whose complaints are not resolved within seven days that the Commission has jurisdiction over the Company and that the customer may contact ORS directly, providing its toll-free number and mailing address. [Id at 51-52.]

Initially, CWS submits that the only evidence of record in this case is that the Company meets all of the Commission’s regulations pertaining to quality (i.e., adequacy) of service and customer relations<sup>7</sup> and that this Commission has not been presented with a single customer complaint against

---

<sup>7</sup>See 26 S.C. Code Ann. Regs. RR. 103-530 through 103-540, 103-570, 103-730 through 103-742 and 103-770 through 103-774 (all 1976, as amended).



CWS since the Company's last rate case. In that light, the inability of Company witness Haas on the witness stand to provide precise data on the number of complaints made to the Company by its customers is irrelevant. Moreover, that does not mean that the Company is incapable of capturing and reviewing that data – only that Mr. Haas could not do it from the witness stand. As the testimony of ORS witness Hipp reflects, the Company is capable of providing such data. [Tr. p. 428, l. 7 – p. 429, l. 16.] Furthermore, there is no requirement that the Company capture complaint information in the “periodic” manner required by Order No. 2005-328; to the contrary, and as was pointed out at hearing, the Commission's regulations with respect to recording and summarizing customer complaint data have been **relaxed** by the Commission. [Tr. p.372, l. 14 – p. 373, l. 11.] *Cf.* 26 S.C. Code Ann. Regs. RR. 103-516 and 103-716 (1976) and 26 S.C. Code Ann. Regs. RR. 103-516 and 103-716 (Supp. 2004). Additionally, implementation of these directives would contravene the provisions of the Administrative Procedures Act since they effectively amend RR. 103-516 and 103-716. These regulations have established binding norms for water and sewer utilities with respect to recordation of customer complaints. Since no notice of any such amendment has been given, enforcement of this portion of Order No. 2005-328 would be contrary to S.C. Code Ann. § 1-23-110 (Supp. 2004). Similarly, the provisions of Order No. 2005-328 pertaining to the content of customer bills, resolution of customer complaint issues and notice to customers of their ability to contact ORS are in excess of the Commission's statutory authority and exceed the requirements of the Commission's regulations. Moreover, there was no testimony from any customer that demonstrated that customers do not know how or where to complain to ORS. To the contrary, ORS witness Hipp reported that 18 customers did complain to ORS regarding the Company's service or billing during the test year. Furthermore, the imposition of billing

requirements inconsistent with S.C. Code Ann. Regs. RR. 103-532 and 103-732 (Supp. 2004) effectively amends Commission rules in violation of § 1-23-110.

CWS therefore submits that the requirements of paragraphs 1, 2 and 3 at pages 51-52 of Order No. 2005-328 are not supported by the substantial evidence of record, exceed the Commission's authority under law, and subject the Company to binding norms not properly adopted by the Commission in rulemaking proceedings under the APA.

7. Order No. 2005-328 concludes that although "a number of [CWS's] customers complained of poor water quality," there was "no testing data in the record which would allow this Commission to make findings regarding the odor, taste or turbidity of the Company's water **in connection with this rate hearing.**" [Id. at 52 (emphasis supplied).] Based upon the further conclusion that "customers are entitled to get what they pay for" (Id.), the Commission then directs that ORS develop tests "on the water produced by the facilities connected with this case" for compliance with 26 S.C. Code Ann. Regs. R. 103-770 (1976) "so that ORS and this Commission may take additional action" if necessary. This portion of Order No. 2005-328 is unsupported by, or is erroneous in view of, the substantial evidence of record and is in excess of the Commission's authority under law and its own regulations for the following reasons:

- (a) Initially, CWS notes that the number of customers complaining of the quality of water was very low, with no more than thirteen (13) of the Company's 5,800 water customers testifying in this regard.<sup>8</sup> This is approximately two-tenths of one percent

---

<sup>8</sup>See Transcript Volume 1, p. 23, l. 18 - p. 24, l. 4; Transcript Volume 2, p. 29, l. 18 - p. 30, l. 4; p. 53, ll. 18-25; Transcript Volume 3, p. 25, ll. 11-14; p. 39, ll. 14-25; p. 77, ll. 1-10 and p. 84, ll. 21-24; Transcript Volume 4, p. 14, ll. 21-25; p. 17, ll. 8-11; p. 19, ll. 13-15; p. 25, ll. 1-6, and Transcript Volume 5, p. 61, l. 23 - p. 62, l. 6.

(.2%) of the Company's water customer base. Of these 13 customers, eight (8) are served by systems in which the water source is bulk water.<sup>9</sup> CWS submits that a reasonable mind could not form a conclusion with respect to the **overall** quality of the water supplied by the Company based simply upon this testimony. Thus, the directives contained in this portion of the order are unsupported by substantial evidence.

- (b) Additionally, the fact that no testing data exists in the record with respect to the odor, taste and turbidity of the water supplied by CWS is irrelevant to the issues properly before this Commission in the instant docket. There is no requirement that the Company supply water testing data with its application. See 26 S.C. Code Ann. Regs. R. 103-712.4.A.13 (Supp. 2004).<sup>10</sup> Moreover, as 26 S.C. Code Ann. RR. 103-770 reflects, water testing is to be conducted by "the responsible State . . . agency." The agency charged by the legislature with responsibility for testing water is DHEC – not ORS. See S.C. Code Ann. §§ 44-55-10, *et seq.* (Revised 2002). Pursuant to regulations promulgated thereunder, DHEC is authorized to test for turbidity, taste and odor control.<sup>11</sup> DHEC was a party in the instant case and made absolutely no

---

<sup>9</sup>See Transcript Volume 3, p. 25, ll. 11-14; p. 39, ll. 14-25; p. 77, ll. 1-10 and p. 84, ll. 21-24 and Transcript Volume 4, p. 14, ll. 21-25; p. 17, ll. 8-11; p. 19, ll. 13-15; p. 25, ll. 1-6; Hearing Exhibit 16, p. 29; Tr. p. 470, l. 14 - p. 71, l. 14 and p. 475, ll. 7-14.

<sup>10</sup>The Company takes this opportunity to renew its contention that the requirements of S.C. Code Ann. § 1-23-320(a) (Revised 2005) are violated when, as here, issues are treated by the Commission on less than thirty (30) days notice. See also S.C. Const. art. I, § 22. *Cf.* Order No. 2005-328 at 4-6.

<sup>11</sup>See 24A S.C. Code Ann. Regs. RR. 61-58.10.B, 61-58.3.D(10) and R.61-58.2.D(9) (Supp. 2004). Also see *Marsh V. Oregon Natural Resources Council*, 490 U.S. 360, 364, n. 2 (1989)

assertion to the Commission that the quality of water supplied by CWS was deficient in any manner. Furthermore, the record reflects that ORS had access to the sanitary surveys conducted by DHEC with respect to the Company's water facilities; yet ORS did not assert to the Commission that the DHEC surveys revealed violations on the Company's part. [Tr. p. 407, ll. 19-23.] Similarly, although it limited its sampling procedures to those endorsed by EPA, ORS noted that it detected no odor at any of the Company's water supply facilities. [Tr. p. 408, ll. 7-10.]

- (c) Furthermore, even assuming that data should have been made available to address water odor, taste and turbidity, the inquiry of whether water supplied by CWS is, "insofar as practicable, free from objectionable odor, taste and color" is not properly at issue in the instant case since there is absolutely no evidence of record that this standard has not been met. Read properly, R. 103-770 places upon CWS only one absolute requirement, which is: to provide potable water; there is absolutely no evidence of record that the Company's water is not potable. The remainder of this regulation simply requires that, **where practicable**, the water supplied not contain objectionable odor, taste or color. There is quite simply no evidence of record that water supplied by CWS contains objectionable odor, taste or color when it is practicable for CWS to supply water that is free from same.
- (d) Finally, CWS is unaware of any statutory authority whereby ORS may conduct the tests on water directed by the Commission. Commission Regulation R. 103-770.C

---

(quoting U.S. Army Corps of Engineers for the proposition that "[t]urbidity is an expression of the optical property of water which causes light to be scattered and absorbed rather than transmitted through in straight lines.")

provides only that CWS submit samples for examination “by the responsible State or local agencies.” As noted above, the legislature has designated DHEC as the state agency responsible for water testing. Moreover, it is questionable that ORS could engage in any meaningful testing as the majority of CWS’s water customers are supplied bulk water generated by local government suppliers [Hearing Exhibit 18] over whom neither the Commission nor ORS have jurisdiction.

CWS therefore submits that the requirements of paragraphs 1 and 2 at pages 52-53 of Order No. 2005-328 are not supported by, or are erroneous in light of, the substantial evidence of record, and exceed the Commission’s authority under law.

8. Order No. 2005-328 finds that CWS was fined by DHEC for violations of that agency’s regulations during the test year, but that “there is no record before the Commission explaining the specific nature of these violations or the amount of fines.” [Id. at 53.] Order No. 2005-328 then further concludes that DHEC violations “by their very nature, affect the services provided to Carolina Water Service’s customers.” [Id. at 53-54.] Based upon this conclusion, Order No. 2005-328 creates a “reporting system” placing stringent reporting requirements upon the Company. For the following reasons, this portion of Order No. 2005-328 is unsupported by, or is erroneous in view of, the substantial evidence of record, is arbitrary and capricious, is violative of the South Carolina constitution, and is in excess of the Commission’s authority under law and its own regulations.

- (a) The record reflects that the total amount of DHEC fines incurred by the Company in the test year is approximately \$21,000.00, none of which was claimed for ratemaking

purposes.<sup>12</sup> [Id., Tr. p. 511, l. 25 – p. 512, l. 3.] Accordingly, the finding of Order No. 2005-328 in this regard is erroneous in light of the substantial evidence of record.

- (b) Order No. 2005-328 concludes “that there is no record of the specific nature of [the Company’s test year DHEC] violations.” [Id. at 53.] Yet, the Commission later concludes that “DHEC violations, by their very nature, affect the service provided to Carolina Water Service’s customers.” These inconsistent conclusions plainly demonstrate the arbitrary and capricious nature of Order No. 2005-328 in regard to the reporting of the Company’s test year DHEC violations. On the one hand, Order No. 2005-328 notes that the Commission lacks information pertaining to the nature of the violations, and on the other hand states that the nature of the violations does not matter.
- (c) This portion of Order No. 2005-328 also departs from the plain language of the provisions of 26 S.C. Code Ann. RR. 103-513 (C) and 103-713(C) (Supp. 2004), which require only that CWS report notices of violations of DHEC rules “which **affect the service provided** to its customers.” Had the Commission and legislature intended to include a requirement that all notices of DHEC violation be reported to the Commission, and not just those “which affect the service provided to . . .

---

<sup>12</sup>Measured against the Company’s total allowed test year operating expenses of \$5,276,547 [Order No. 2005-328 at 23], this is less than four-tenths of one percent (0.004%) and, thus, immaterial. *Cf. Porter, supra*. And, by contrast, in the recently concluded case involving Midlands Utility – a much smaller utility with far less customers than CWS – the Commission recognized that DHEC fines totaling \$30,451 had been incurred during the test year, but imposed no additional reporting requirements on the utility as a result. See Order No. 2005-168, Docket No. 2004-297-S. Thus, this portion of Order No. 2005-328 is contrary to Commission precedent. *See 330 Concord Street Neighborhood Ass’n, supra*.

customers,” they could have said so. But they did not. Regulations authorized by the legislature have the force and effect of law. *Glover by Cauthen v. Suitt Construction Company*, 318 S.C. 465, 458 S.E.2d 535 (1995). As is the case with statutory construction, the words of a regulation must be given their plain meaning. *Converse Power Corp. V. S.C. Dep’t of Health and Environmental Control*, 350 S.C. 39, 564 S.E.2d 341 (Ct. App. 2002). Even in the absence of the plain meaning rule, the reading Order No. 2005-328 gives to subsection C of these regulations is improper. A single provision of a regulation cannot be read in isolation of the remainder of the regulation. *Cf. State v. Belviso*, 360 S.C. 112, 600 S.E.2d 68 (Ct. App. 2004). To the contrary, regulations, like statutes, must be read as a whole, considering and giving affect to all parts thereof. *Cf. Gilfillin v. Gilfillin*, 344 S.C. 407, 544 S.E.2d 829 (2001). Read as a whole, these regulations clearly pertain to violations of regulatory standards which affect the continuous provision of service to customers –i.e., those violations which result in an interruption of service. In addition to the language employed elsewhere in the regulations,<sup>13</sup> subsection C itself makes abundantly clear that only violations affecting continuous provision of service are at issue since there is placed upon the utility an obligation to temporally address and correct the violation. The only reason that a temporal response to a violation would be necessary is to alleviate the interruption of service. On the other hand, there can be any number of DHEC violations which cannot be temporally addressed.

---

<sup>13</sup>See, e.g., subsections A and B referencing “interruptions of service.”

- (d) There is absolutely no evidence of record to support the conclusion of Order No. 2005-328 that all DHEC violations affect the service provided to the Company's customers. As Company witness Haas noted in his rebuttal testimony challenging the original contention of ORS that the Company had not complied with these regulations, DHEC violations may occur which have no affect on service to customers. [Tr. p. 479, ll. 22-24.] This testimony was unchallenged by any party of record as no surrebuttal testimony addressing this point was filed. Moreover, in its proposed order submitted to the Commission in this docket, ORS did not assert that the Company's interpretation of RR. 103-513(C) and 103-713(C) was erroneous.
- (e) This portion of Order No. 2005-328 violates the Company's due process rights since it requires the Company to take certain actions even though there has been no final determination that DHEC regulations have been violated. See S.C. Const. art. I, § 22.
- (f) This portion of Order No. 2005-328 violates S.C. Code Ann. § 1-23-110 since it effects an amendment to R. 103-712.4.A.13 and R. 103-713(C) – and only as to a single utility – without observance of the requirements for rulemaking, including that of notice to those sought to be bound. See also S.C. Const. art. I, § 22.<sup>14</sup>

---

<sup>14</sup>If, as Order No. 2005-328 concludes, "DHEC violations, by their very nature, affect the service provided to Carolina Water Service customers," then every such violation by every other jurisdictional utility must also affect the service provided to their customers. Accordingly, unless CWS is not be singled out in a manner implicating equal protection, the Commission must necessarily hold every utility to the same standard. This the Commission can only accomplish through a rulemaking proceeding in accordance with the law.



CWS therefore submits that the requirements of paragraphs 1, 2 and 3 at page 54 of Order No. 2005-328 are not supported by, or are erroneous in light of, the substantial evidence of record, are arbitrary and capricious, and exceed the Commission's authority under its regulations and law, and violate the Company's constitutional rights.

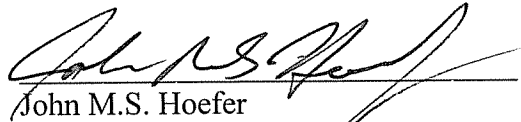
9. In the event that this petition for rehearing or reconsideration is denied, CWS requests that the Commission approve a bond pursuant to S.C. Code Ann. § 58-5-240(D) (Supp. 2004) in the amount of \$326,808.00. This figure represents **twice** the annual difference between the sewer revenue which would be generated by the sewer rates approved in Order No. 2005-328 and the sewer revenue the Company would receive if the Commission had authorized rates generating \$1,077,178 in additional revenue based upon application of the adopted customer growth component to both revenues and expenses. See ¶ 5, *supra*. Attached hereto as Petition Exhibit 3 is the Company's calculation in that regard. Also attached hereto as Petition Exhibit 4 is a proposed bond form to be executed by a surety company authorized to do business in this state. CWS submits that, based upon the additional amount of sewer revenues which would be generated over and above those authorized in Order No. 2005-328 over a period of two years,<sup>15</sup> a surety bond in the amount proposed is sufficient. CWS therefore requests that the Commission approve the attached bond form to be posted during any appeal by CWS in the event that the requested revisions to the sewer rate schedule are not granted upon this petition for rehearing or reconsideration. CWS further requests that the Commission allow CWS to make any refunds required (if the rates put into effect are finally determined to be excessive) by crediting existing customers' bills.

---

<sup>15</sup>CWS assumes that any further proceedings regarding this matter would take two years to complete.

WHEREFORE, having set forth the proper grounds, CWS requests that the Commission issue an order: (a) granting this petition for rehearing or reconsideration; (b) modifying the findings, conclusions, and decisions in Order No. 2005-328 in accordance herewith; (c) in the event that rehearing or reconsideration are not granted, approving the attached bond form to be conditioned upon the refund, by way of credits on existing customers' bills, if the rates put into effect are finally determined to be excessive; and (d) granting CWS such other and further relief as is just and proper.

Respectfully submitted,



John M.S. Hoefer

**WILLOUGHBY & HOEFER, P.A.**

1022 Calhoun Street, Suite 302

Post Office Box 8416

Columbia, South Carolina 29202-8416

803-252-3300

Attorneys for Carolina Water Service, Inc.

Columbia, South Carolina  
This 14th day of July, 2005

Carolina Water Service, Inc.  
Income Statement - Combined Operations  
Test Year Ended June 30, 2004

Exhibit No.1  
Schedule No. 1-1

	As Adjusted CWS & ORS	Proposed Increase	After Proposed Increase
<b>Operating Revenues</b>			
Water Revenues	\$ 1,836,269	\$ 47,185	\$ 1,883,454
Sewer Revenues	3,774,328	1,029,993	4,804,321
Misc. Revenues	106,827	-	106,827
Uncollectible Accounts	(42,869)	(8,344)	(51,213)
<b>Total Operating Revenues</b>	<u>5,674,555</u>	<u>1,068,834</u>	<u>6,743,389</u>
 Total Operation & Maintenance Expenses	3,206,723	-	3,206,723
Total General Expenses	964,142	-	964,142
Depreciation & Amortization	352,242	-	352,242
Extraordinary Retirement	29,924	-	29,924
Taxes Other Than Income	735,761	11,562	747,323
Income Taxes	-	299,185	299,185
Amortization of ITC	(8,852)	-	(8,852)
Interest on Customer Deposits	(3,311)	-	(3,311)
<b>Total Operating Expenses</b>	<u>5,276,629</u>	<u>310,747</u>	<u>5,587,376</u>
 Total Operating Income	397,926	758,088	1,156,014
 AFUDC	-	-	-
Customer Growth	7,184	34,476	41,660
 Net Income for Return	405,110	792,564	1,197,674
 <b>Original Cost Rate Base</b>	14,940,867		14,940,867
 Return on Rate Base			8.02%
 Interest Expense			644,242

Carolina Water Service, Inc.  
Income Statement - Water Operations  
Test Year Ended June 30, 2004

Exhibit No.1  
Schedule No. 1-2

	As Adjusted CWS & ORS	Proposed Increase	After Proposed Increase
<b>Operating Revenues</b>			
Water Revenues	\$ 1,836,269	\$ 47,185	\$ 1,883,454
Sewer Revenues	-		-
Misc. Revenues	31,199		31,199
Uncollectible Accounts	(13,705)	(355)	(14,060)
<b>Total Operating Revenues</b>	<u>1,853,763</u>	<u>46,830</u>	<u>1,900,593</u>
 Total Operation & Maintenance Expenses	716,781	-	716,781
Total General Expenses	356,348	-	356,348
Depreciation & Amortization	118,639		118,639
Extraordinary Retirement	29,924		29,924
Taxes Other Than Income	250,636	506	251,142
Income Taxes	-	95,684	95,684
Amortization of ITC	(2,631)		(2,631)
Interest on Customer Deposits	(1,224)		(1,224)
<b>Total Operating Expenses</b>	<u>1,468,472</u>	<u>96,190</u>	<u>1,564,663</u>
 Total Operating Income	385,291	(49,360)	335,931
 AFUDC	-		-
Customer Growth	7,012	14,269	21,281
 Net Income for Return	392,303	(35,091)	357,212
 <b>Original Cost Rate Base</b>	3,999,548		3,999,548
 Return on Rate Base			8.93%
 Interest Expense			172,458

Carolina Water Service, Inc.  
Income Statement - Sewer Operations  
Test Year Ended June 30, 2004

Exhibit No.1  
Schedule No. 1-3

	As Adjusted CWS & ORS	Proposed Increase	After Proposed Increase
<b>Operating Revenues</b>			
Water Revenues	\$ -		\$ -
Sewer Revenues	3,774,328	1,029,993	4,804,321
Misc. Revenues	75,628		75,628
Uncollectible Accounts	(29,164)	(7,989)	(37,153)
<b>Total Operating Revenues</b>	<u>3,820,792</u>	<u>1,022,004</u>	<u>4,842,796</u>
 Total Operation & Maintenance Expenses	2,489,942	-	2,489,942
Total General Expenses	607,794	-	607,794
Depreciation & Amortization	233,603		233,603
Extraordinary Retirement	-		-
Taxes Other Than Income	(4) 485,125	11,055	496,180
Income Taxes	-	203,501	203,501
Amortization of ITC	(6,221)		(6,221)
Interest on Customer Deposits	(2,087)		(2,087)
<b>Total Operating Expenses</b>	<u>3,808,157</u>	<u>214,556</u>	<u>4,022,713</u>
 Total Operating Income	12,635	807,448	820,083
 AFUDC	-		-
Customer Growth	172	20,207	20,379
 Net Income for Return	12,807	827,655	840,462
 <b>Original Cost Rate Base</b>	10,941,319		10,941,319
 Return on Rate Base			7.68%
 Interest Expense			471,784

Carolina Water Service of South Carolina  
**PROPOSED REVENUES**

Exhibit No.1  
Schedule No. 1-4  
Page 1 of 2

**WATER**

Bill code		Gallonnage	Usage		Units	Base		Revenues
			Charge			Facility	Charge	
30001	5/8" Res Water	99,748,350	3.32		16,598		10.25	\$ 501,297
30002	5/8" Res Water Dist	188,741,828	1.90		31,772		10.25	684,276
30003	5/8" Res. Under Const.	57,710	3.32		12		10.25	315
30006	5/8" Res Water (per unit)	13,306,880	1.90		2,496		10.25	50,867
30008	5/8" Coml Water Dist	2,593,505	1.90		285		10.25	7,849
30009	5/8" Coml Water	640,980	3.32		117		10.25	3,327
30010	1" Coml Water	14,950	3.32		12		25.62	357
30011	1" Coml Water Dist	1,501,120	1.90		27		25.62	3,544
30016	2" Coml Water Dist	6,189,590	1.90		71		82.00	17,582
30017	3" Coml Water Dist	1,695,600	1.90		12		164.00	5,190
46001	5/8" Res Water	101,366,139	1.90		18,778		10.25	385,070
46005	2" Res Water	17,509,290	1.90		7,680		10.25	111,988
46006	5/8" Res Flat Rate	0	1.90		12		10.25	123
46009	5/8" Coml Water	6,733,200	1.90		668		10.25	19,640
46010	1" Coml Water	3,457,146	1.90		180		25.62	11,180
46012	1.5" Coml Water	5,666,700	1.90		125		51.25	17,173
46013	2" Coml Water	14,865,970	1.90		237		82.00	47,679
46014	3" Coml Water	4,276,500	1.90		48		164.00	15,997
Total		468,365,458			79,131			\$ 1,883,454

All Subs:

Carolina Water Service of South Carolina  
**PROPOSED REVENUES**

Exhibit No.1  
Schedule No. 1-4  
Page 2 of 2

**SEWER**

Bill code

All Subs:

	Units	Rate	Revenues
29521 Residential Sewer	1,249	37.76	\$ 47,153
30021 5/8" Res Sewer	47,326	37.76	1,787,012
30023 2" Commercial-per SFE	2,064	37.76	77,926
30024 5/8" Res Sewer Collection	6,177	24.33	150,265
30029 VanArsdale Subdivision	4,992	15.00	74,880
30041 5/8" Res Sewer	48,458	37.76	1,829,784
30042 5/8" Mobile Home Sewer	1,235	26.99	33,322
30043 5/8" Coml Sewer-per SFE	1,070	37.76	40,403
46021 5/8" Res Sewer	25,300	24.33	615,476
46023 5/8" Coml Sewer Collection-per SFE	6,088	24.33	148,100
Total	143,957		\$ 4,804,321

Carolina Water Service, Inc.  
 Computation of Income Taxes  
 Test Year Ended June 30, 2004

Exhibit No.1  
 Schedule No. 1-5

	<u>Combined</u>	<u>Water</u>	<u>Sewer</u>
Operating Revenues After Proposed Increase	\$ 6,743,389	\$ 1,900,593	\$ 4,842,796
Operating Expenses After Proposed Increase	<u>5,297,043</u>	<u>1,471,610</u>	<u>3,825,433</u>
Net Operating Income Before Taxes	1,446,347	428,983	1,017,363
Less: Annualized Interest Expense	<u>644,242</u>	<u>172,458</u>	<u>471,784</u>
Taxable Income - State	802,105	256,525	545,580
State Income Tax @ 5%	40,105	12,826	27,279
Taxable Income - Federal	762,000	243,699	518,301
Federal Income Tax @ 34%	259,080	82,858	176,222
Total State & Federal Income Tax	299,185	95,684	203,501



Carolina Water Service, Inc.

Computation of Taxes Other Than Income [Excluding Payroll Taxes]

Test Year Ended June 30, 2004

Exhibit No.1

Schedule No. 1-6

	<u>Combined</u>	<u>Water</u>	<u>Sewer</u>
Operating Revenues - Proposed Increase	\$ 1,077,178	\$ 47,185	\$ 1,029,993
PSC & ORS Factor [.007733226]	8,330	365	7,965
Department of Revenue [ .003]	<u>3,232</u>	<u>142</u>	<u>3,090</u>
Total	\$ 11,562	\$ 506	\$ 11,055

Carolina Water Service, Inc.	Exhibit No.1
Customer Growth Analysis	Schedule No. 1-7
Test Year Ended June 30, 2004	

	<u>Growth Factor</u>	<u>After Proposed Increase</u>
Water	6.34%	
	Net Operating Income	335,931
	Growth Factor	<u>6.34%</u>
	Growth Adjustment	\$ 21,281
Sewer	2.49%	
	Net Operating Income	820,083
	Growth Factor	<u>2.49%</u>
	Growth Adjustment	\$ 20,379

Carolina Water Service, Inc.  
Income Statement - Combined Operations  
Test Year Ended June 30, 2004

Exhibit No. 2  
Schedule No. 2-1

	As Adjusted CWS & ORS	Proposed Increase	After Proposed Increase
<b>Operating Revenues</b>			
Water Revenues	\$ 1,836,269	\$ 47,185	\$ 1,883,454
Sewer Revenues	3,774,328	1,069,937	4,844,265
Misc. Revenues	106,827	-	106,827
Uncollectible Accounts	(42,869)	(8,653)	(51,522)
<b>Total Operating Revenues</b>	<u>5,674,555</u>	<u>1,108,469</u>	<u>6,783,024</u>
 Total Operation & Maintenance Expenses	3,206,723	-	3,206,723
Total General Expenses	964,142	-	964,142
Depreciation & Amortization	352,242	-	352,242
Extraordinary Retirement	29,924	-	29,924
Taxes Other Than Income	735,761	11,990	747,751
Income Taxes	-	313,809	313,809
Amortization of ITC	(8,852)	-	(8,852)
Interest on Customer Deposits	(3,311)	-	(3,311)
<b>Total Operating Expenses</b>	<u>5,276,629</u>	<u>325,799</u>	<u>5,602,428</u>
 Total Operating Income	397,926	782,670	1,180,595
 AFUDC	-	-	-
Customer Growth	7,184	10,402	17,586
 Net Income for Return	405,110	793,072	1,198,181
 <b>Original Cost Rate Base</b>	14,940,867		14,940,867
 Return on Rate Base			8.02%
 Interest Expense			644,242

Carolina Water Service, Inc.  
Income Statement - Water Operations  
Test Year Ended June 30, 2004

Exhibit No. 2  
Schedule No. 2-2

	As Adjusted CWS & ORS	Proposed Increase	After Proposed Increase
<b>Operating Revenues</b>			
Water Revenues	\$ 1,836,269	\$ 47,185	\$ 1,883,454
Sewer Revenues	-		-
Misc. Revenues	31,199		31,199
Uncollectible Accounts	(13,705)	(355)	(14,060)
<b>Total Operating Revenues</b>	<u>1,853,763</u>	<u>46,830</u>	<u>1,900,593</u>
 Total Operation & Maintenance Expenses	716,781	-	716,781
Total General Expenses	356,348	-	356,348
Depreciation & Amortization	118,639		118,639
Extraordinary Retirement	29,924		29,924
Taxes Other Than Income	250,636	506	251,142
Income Taxes	-	95,684	95,684
Amortization of ITC	(2,631)		(2,631)
Interest on Customer Deposits	(1,224)		(1,224)
<b>Total Operating Expenses</b>	<u>1,468,472</u>	<u>96,190</u>	<u>1,564,663</u>
 Total Operating Income	385,291	(49,360)	335,931
 AFUDC	-		-
Customer Growth	7,012	(885)	6,127
 Net Income for Return	392,303	(50,246)	342,057
 <b>Original Cost Rate Base</b>	3,999,548		3,999,548
 Return on Rate Base			8.55%
 Interest Expense			172,458

Carolina Water Service, Inc.  
Income Statement - Sewer Operations  
Test Year Ended June 30, 2004

Exhibit No. 2  
Schedule No. 2-3

	As Adjusted CWS & ORS	Proposed Increase	After Proposed Increase
<b>Operating Revenues</b>			
Water Revenues	\$ -		\$ -
Sewer Revenues	3,774,328	1,069,937	4,844,265
Misc. Revenues	75,628		75,628
Uncollectible Accounts	(29,164)	(8,298)	(37,462)
<b>Total Operating Revenues</b>	<u>3,820,792</u>	<u>1,061,639</u>	<u>4,882,431</u>
 Total Operation & Maintenance Expenses	2,489,942	-	2,489,942
Total General Expenses	607,794	-	607,794
Depreciation & Amortization	233,603		233,603
Extraordinary Retirement	-		-
Taxes Other Than Income	485,125	11,484	496,609
Income Taxes	-	218,125	218,125
Amortization of ITC	(6,221)		(6,221)
Interest on Customer Deposits	(2,087)		(2,087)
<b>Total Operating Expenses</b>	<u>3,808,157</u>	<u>229,609</u>	<u>4,037,766</u>
 Total Operating Income	12,635	832,030	844,665
 AFUDC	-		-
Customer Growth	172	11,287	11,459
 Net Income for Return	12,807	843,317	856,124
 <b>Original Cost Rate Base</b>	10,941,319		10,941,319
 Return on Rate Base			7.82%
 Interest Expense			471,784

Carolina Water Service of South Carolina  
PROPOSED REVENUES

Exhibit No. 2  
Schedule No. 2-4  
Page 1 of 2

**WATER**

Bill code		Gallonsage	Usage Charge	Units	Base Facility Charge	Revenues
<u>All Subs:</u>						
30001	5/8" Res Water	99,748,350	3.32	16,598	10.25	\$ 501,297
30002	5/8" Res Water Dist	188,741,828	1.90	31,772	10.25	684,276
30003	5/8" Res. Under Const.	57,710	3.32	12	10.25	315
30006	5/8" Res Water (per unit)	13,306,880	1.90	2,496	10.25	50,867
30008	5/8" Coml Water Dist	2,593,505	1.90	285	10.25	7,849
30009	5/8" Coml Water	640,980	3.32	117	10.25	3,327
30010	1" Coml Water	14,950	3.32	12	25.62	357
30011	1" Coml Water Dist	1,501,120	1.90	27	25.62	3,544
30016	2" Coml Water Dist	6,189,590	1.90	71	82.00	17,582
30017	3" Coml Water Dist	1,695,600	1.90	12	164.00	5,190
46001	5/8" Res Water	101,366,139	1.90	18,778	10.25	385,070
46005	2" Res Water	17,509,290	1.90	7,680	10.25	111,988
46006	5/8" Res Flat Rate	0	1.90	12	10.25	123
46009	5/8" Coml Water	6,733,200	1.90	668	10.25	19,640
46010	1" Coml Water	3,457,146	1.90	180	25.62	11,180
46012	1.5" Coml Water	5,666,700	1.90	125	51.25	17,173
46013	2" Coml Water	14,865,970	1.90	237	82.00	47,679
46014	3" Coml Water	4,276,500	1.90	48	164.00	15,997
Total		468,365,458		79,131		\$ 1,883,454

Carolina Water Service of South Carolina  
**PROPOSED REVENUES**

Exhibit No. 2  
 Schedule No. 2-4  
 Page 2 of 2

**SEWER**

Bill code

All Subs:

	Units	Rate	Revenues
29521 Residential Sewer	1,249	38.14	\$ 47,628
30021 5/8" Res Sewer	47,326	38.14	1,804,995
30023 2" Commercial-per SFE	2,064	38.14	78,711
30024 5/8" Res Sewer Collection	6,177	24.37	150,530
30029 VanArsdale Subdivision	4,992	15.00	74,880
30041 5/8" Res Sewer	48,458	38.14	1,848,196
30042 5/8" Mobile Home Sewer	1,235	27.21	33,595
30043 5/8" Coml Sewer-per SFE	1,070	38.14	40,810
46021 5/8" Res Sewer	25,300	24.37	616,559
46023 5/8" Coml Sewer Collection-per SFE	6,088	24.37	148,361
Total	143,957		\$ 4,844,265

Carolina Water Service, Inc.  
 Computation of Income Taxes  
 Test Year Ended June 30, 2004

Exhibit No. 2  
 Schedule No. 2-5

	<u>Combined</u>	<u>Water</u>	<u>Sewer</u>
Operating Revenues After Proposed Increase	\$ 6,783,024	\$ 1,900,593	\$ 4,882,431
Operating Expenses After Proposed Increase	<u>5,297,472</u>	<u>1,471,610</u>	<u>3,825,862</u>
Net Operating Income Before Taxes	1,485,552	428,983	1,056,569
Less: Annualized Interest Expense	<u>644,242</u>	<u>172,458</u>	<u>471,784</u>
Taxable Income - State	841,310	256,525	584,785
State Income Tax @ 5%	42,066	12,826	29,239
Taxable Income - Federal	799,245	243,699	555,546
Federal Income Tax @ 34%	271,743	82,858	188,886
Total State & Federal Income Tax	313,809	95,684	218,125



Carolina Water Service, Inc.

Computation of Taxes Other Than Income [Excluding Payroll Taxes]

Test Year Ended June 30, 2004

Exhibit No. 2

Schedule No. 2-6

	<u>Combined</u>	<u>Water</u>	<u>Sewer</u>
Operating Revenues - Proposed Increase	\$ 1,117,122	\$ 47,185	\$ 1,069,937
PSC & ORS Factor [.007733226]	8,639	365	8,274
Department of Revenue [ .003]	<u>3,351</u>	<u>142</u>	<u>3,210</u>
Total	\$ 11,990	\$ 506	\$ 11,484

Carolina Water Service, Inc.  
Customer Growth Analysis  
Test Year Ended June 30, 2004

Exhibit No. 2  
Schedule No. 2-7

			<u>Growth Factor</u>	<u>After Proposed Increase</u>
<b><u>Water Operations</u></b>				
Number of Customers	31-Dec-03	5,733		
Number of Customers	31-Dec-04	5,946		
Average		5,840	1.82%	
Net Operating Income				335,931
Growth Factor				<u>1.82%</u>
Growth Adjustment				\$ 6,127
<b><u>Sewer Operations</u></b>				
Number of Customers	31-Dec-03	9,779		
Number of Customers	31-Dec-04	10,050		
Average		9,915	1.36%	
Net Operating Income				844,665
Growth Factor				<u>1.36%</u>
Growth Adjustment				\$ 11,459

## Commission Ordered Rates Using Actual Billing Units &amp; Gallons

SEWER
-------

Bill code		Units	Rate	Revenues
<u>All Subs:</u>				
29521	Residential Sewer	1,249	\$ 36.46	\$ 45,530
30021	5/8" Res Sewer	47,326	36.46	1,725,489
30023	2" Commercial-per SFE	2,064	36.46	75,244
30024	5/8" Res Sewer Collection	6,177	23.47	144,968
30029	VanArsdale Subdivision	4,992	15.00	74,880
30041	5/8" Res Sewer	48,458	36.46	1,766,788
30042	5/8" Mobile Home Sewer	1,235	26.20	32,345
30043	5/8" Coml Sewer-per SFE	1,070	36.46	39,012
46021	5/8" Res Sewer	25,300	23.47	593,781
46023	5/8" Coml Sewer Collection-per SFE	6,088	23.47	142,879
Total		143,957		\$ 4,640,917

CWS Proposed Rates Using Actual Billing Units & Gallons

**SEWER**

Bill code		Units	Rate	Revenues
<u>All Subs:</u>				
29521	Residential Sewer	1,249	37.76	\$ 47,153
30021	5/8" Res Sewer	47,326	37.76	1,787,012
30023	2" Commercial-per SFE	2,064	37.76	77,926
30024	5/8" Res Sewer Collection	6,177	24.33	150,265
30029	VanArsdale Subdivision	4,992	15.00	74,880
30041	5/8" Res Sewer	48,458	37.76	1,829,784
30042	5/8" Mobile Home Sewer	1,235	26.99	33,322
30043	5/8" Coml Sewer-per SFE	1,070	37.76	40,403
46021	5/8" Res Sewer	25,300	24.33	615,476
46023	5/8" Coml Sewer Collection-per SFE	6,088	24.33	148,100
Total		143,957		\$ 4,804,321

Bond Requirement \$ 163,404

**EXHIBIT 4**

**BEFORE**

**THE PUBLIC SERVICE COMMISSION OF**

**SOUTH CAROLINA**

**DOCKET NO. 2004-357-WS**

IN RE: )  
 )  
Application of Carolina Water Service, )  
Inc. for adjustment of rates and )  
charges and modification of certain terms )  
and conditions for the provision of water )  
and sewer service. )  
\_\_\_\_\_ )

**BOND**

KNOW ALL PEOPLE BY THESE PRESENTS, that Carolina Water Service, Inc. as principal and \_\_\_\_\_ Insurance Company, a corporation under the laws of the State of \_\_\_\_\_, duly authorized to transact business in the State of South Carolina as surety, are held and firmly bound unto the customers of Carolina Water Service, Inc. affected by Order No. 2005-328 of the Public Service Commission, dated June 22, 2004, and any Order denying reconsideration thereof, issued in the above-captioned proceeding, for the sum of three hundred twenty six thousand eight hundred eight and No/100s Dollars (\$326,808.00) in lawful money of the United States of America, for payment of which, well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the Commission Orders under appeal are ultimately determined to be valid and enforceable, then,

Carolina Water Service, Inc. hereby promises to refund amounts it has collected in excess of the amounts finally determined to be correct under the appropriate rate schedules. Any such refunds shall include interest as provided by law.

SIGNED, sealed and dated this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

**As to Principal**

Carolina Water Service, Inc.

\_\_\_\_\_  
Witness

\_\_\_\_\_  
ATTEST:

\_\_\_\_\_  
Witness

**As to Surety**

\_\_\_\_\_  
Insurance Company

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Witness

**WITNESS AS TO PRINCIPAL**

STATE OF \_\_\_\_\_

\_\_\_\_\_ County.

Before me, the subscribing Notary Public, personally appeared \_\_\_\_\_  
and made oath that he/she saw the within named Carolina Water Service, Inc. Company represented  
by sign, seal, and deliver the within Bond, and that he/she with \_\_\_\_\_  
Subscribed their names as witness thereto.

Sworn to and subscribed before  
me this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

\_\_\_\_\_(L.S.)  
Notary Public

**WITNESS AS TO SURETY**

STATE OF \_\_\_\_\_

\_\_\_\_\_ County.

Before me, the subscribing Notary Public, personally appeared \_\_\_\_\_  
and made oath that he/she saw the within named \_\_\_\_\_ Company represented  
by sign, seal, and deliver the within Bond, and that he/she with \_\_\_\_\_  
Subscribed their names as witness thereto.

Sworn to and subscribed before  
me this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

\_\_\_\_\_(L.S.)  
Notary Public

**BEFORE**  
**THE PUBLIC SERVICE COMMISSION OF**  
**SOUTH CAROLINA**

**DOCKET NO. 2004-357-W/S**

IN RE: )  
)  
Application of Carolina Water Service, )  
Inc. for adjustment of rates and charges )  
and modification of certain terms and )  
conditions for the provision of water and )  
sewer service. )  
\_\_\_\_\_ )

**CERTIFICATE OF SERVICE**

This is to certify that I have caused to be served this day one (1) copy of **Carolina Water Service, Inc.'s Petition for Rehearing or Reconsideration and, Alternatively, Request for Approval of Bond** by placing same in the care and custody of the United States Postal Service with first class postage affixed thereto and addressed as follows:

C. Lessie Hammonds, Esquire  
**Office of Regulatory Staff**  
Post Office Box 11263  
Columbia, South Carolina 29211

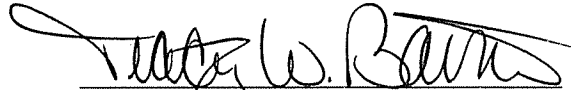
Florence P. Belser, Esquire  
**Office of Regulatory Staff**  
Post Office Box 11263  
Columbia, South Carolina 29211

Jessica J.O. King, Esquire  
**DHEC**  
Chief Counsel for EQC  
2600 Bull Street  
Columbia, South Carolina 29201

RECEIVED  
2005 JUL 14 PM 4:28  
SC PUBLIC  
UTILITY  
COMMISSION



Charles Cook, Esquire  
**Elliott & Elliott, PA**  
721 Olive Street  
Columbia, South Carolina 29205

  
Tracy W. Barnes

Columbia, South Carolina  
This 14<sup>th</sup> day of July, 2005.